

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

JOSÉ A. CRUZ KERKADO; et al

Plaintiff

v.

**COMMONWEALTH OF PUERTO
RICO; et al**

Defendants

CIVIL NO.: 16-2748 (ADC)

Constitutional Rights:

2nd Amendment

- Invasion of Privacy
- Freedom of Association
- Tax on 2nd Amendment
- Interstate Commerce/Travel

**RESPONSE TO “PLAINTIFF[S]’ OPPOSITION TO PRASA’S
MOTION TO DISMISS (DOCKET NO. 18) AND
JUSTICE DEPARTMENT’S MOTION TO DISMISS (DOCKET NO. 19)”**

TO THE HONORABLE COURT:

COMES NOW, Co-Defendants, the Commonwealth of Puerto Rico, the Puerto Rico Police Department and the Puerto Rico Department of Leisure and Sports, without submitting to this Honorable Court’s jurisdiction or waiving any affirmative defense, through the undersigned Attorneys, and respectfully **STATE** and **PRAY** as follows:

1. On September 29, 2016, Plaintiffs filed the instant Complaint. (Dkt No. 1). Consequently, on November 23, 2016, Co-Plaintiff, Puerto Rico Shooting Association filed its “Defendant PRSA’S Motion to Dismiss” (Dkt. No. 17), followed by appearing Co-Defendant’s “Motion for Joinder to Docket No. 17, Motion to Dismiss Pursuant to F.R.Civ.P. 8(a) and 12(b)(6)”, on December 1, 2016. (Dkt No. 19).

2. However, without leave to file in excess of pages, pursuant to Local Rule 7, on December 12, 2016, Plaintiffs filed a thirty seven (37) page “Plaintiff[s]’ Opposition to PRSA’s Motion to

Motion for Joinder and to Dismiss

Case No. 16-2748

Dismiss (Docket No. 18) and Justice Department's Motion to Dismiss (Docket No. 19)" that includes fifteen (15) exhibits, for a total of one hundred and six (106) pages. (Dkt No. 20).

3. In their motion and its exhibits, Plaintiffs bring new averments and factual allegations not included in the Complaint. Therefore, Plaintiffs are using the aforementioned motion to improperly amend their Complaint, and without prior leave from this Honorable Court.

4. As if that was not enough, surprisingly, Plaintiffs use scandalous and disrespectful language to further their position and attack Defendants' Counsels.

5. Hence, appearing co-Defendants request this Honorable Court not to consider the new allegations brought forth by Plaintiffs, as they cannot use an opposition to a motion to dismiss as a subterfuge to amend the Complaint.

6. Finally, appearing Co-Defendants posit that, because the present motion does not enter into specific arguments brought in Docket No. 20, a request for reply is not warranted at this time. However, once this Honorable Court enters the corresponding Order as to the issues brought here, appearing Co-Defendants will be in a better position to determine whether a request for leave for a formal response to the arguments contained in Plaintiffs' opposition is merited.

WHEREFORE, appearing Co-Defendants respectfully request from this Honorable Court not to consider the new averments and factual allegations not contained in the Complaint and brought forth in Docket No. 20, along with any other relief that is deemed available by law.

I HEREBY CERTIFY that on this same date, I have electronically filed the foregoing with the Clerk of the Court using CM/ECF system, which will send notification of such filing to all attorneys of record.

Motion for Joinder and to Dismiss
Case No. 16-2748

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 19st day of December, 2016.

CÉSAR R. MIRANDA RODRÍGUEZ
Secretary of Justice

NOEMI CORTÉS IRIZARRY
Interim Deputy Secretary
General Litigations Office

WANDYMAR BURGOS VARGAS
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